

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH C. CARTER,¹

Respondent Below-
Appellant,

v.

CYNTHIA T. CRAMER,

Petitioner Below-
Appellee.

§

§ No. 502, 2011

§

§

§ Court Below—Family Court

§ of the State of Delaware

§ in and for Sussex County

§ File No. CS07-01809

§ Petition No. 10-31518

§

§

Submitted: January 20, 2012

Decided: February 21, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justice

ORDER

This 21st day of February 2012, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The respondent-appellant, Joseph C. Carter (“Father”), filed an appeal from the Family Court’s August 18, 2011 order establishing joint custody and shared placement of the minor child of Father and the petitioner-appellee, Cynthia T. Cramer (“Mother”). We find no merit to the appeal. Accordingly, we affirm.

¹ The Court *sua sponte* assigned pseudonyms to the parties by Order dated September 19, 2011. Supr. Ct. R. 7(d).

(2) The record before us reflects that, on August 18, 2011, Father and Mother appeared in Family Court for a hearing on Father's petition for a modification of custody regarding the parties' minor child, Joseph C. Carter, Jr. The parties had been operating under a prior order of the Family Court, which established a shared custody, placement and visitation arrangement. In its August 18, 2011 order, the Family Court judge characterizes the modified placement and visitation arrangement as reflecting the agreement of the parties, which was reached during the course of the hearing.

(3) In his appeal from the Family Court's order, Father claims that, far from agreeing to the modification, he is in "total disagreement" with it and characterizes it as a "heinous arrangement." Father contends that he brought Joseph Jr. with him to the hearing to explain to the judge why he does not want to live with Mother, but that the judge did not wish to speak to a child "that young." He also contends that Mother does not provide Joseph Jr. with his own room and does not cooperate in exchanging the child for visitation. In spite of claiming, in essence, that the Family Court judge erred and abused his discretion in his handling of the August 18, 2011 hearing, Father fails to attach a transcript of the hearing to his appeal.²

² Our review of the record reflects that a transcript of the hearing was not requested and was not prepared.

(4) Our standard of review of a decision of the Family Court extends to a review of the facts and the law, as well as the inferences and deductions made by the trial judge.³ We have the duty to review the sufficiency of the evidence as well as the propriety of the findings.⁴ The trial judge's findings of fact will not be disturbed unless they are determined to be clearly erroneous.⁵ We will not substitute our opinion for the findings of the trial judge as long as those findings are supported by the record.⁶

(5) The Supreme Court Rules place the burden on the appellant, even if granted leave to proceed *in forma pauperis*, to produce such portions of the trial transcript as are necessary to give this Court a fair and accurate account of the context in which any alleged error occurred.⁷ The record before us reflects that Father was granted *in forma pauperis* status to pursue his appeal. Nevertheless, it remained his obligation to obtain the transcript of the August 18, 2011 in order to support his claims on appeal. In the absence of that transcript, we have before us an inadequate record for our appellate review of Father's claims of error. We, therefore, are unable to consider those claims.

³ *Solis v. Tea*, 468 A.2d 1276, 1279 (Del. 1983).

⁴ *Wife (J.F.V.) v. Husband (O.W.V., Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

⁵ *Id.*

⁶ *Id.*

⁷ Supr. Ct. R. 9(e) (ii) and 14(e); *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987).

NOW, THEREFORE, IT IS ORDERED that the judgment of the
Family Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice